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16

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,319	09/24/2003	Tamito Suzuki	T2171.0211	2323
32172	7590	03/10/2005	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) 41 ST FL. NEW YORK, NY 10036-2714			HOANG, QUOC DINH	
			ART UNIT	PAPER NUMBER
			2818	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/668,319	SUZUKI, TAMITO	
	Examiner	Art Unit	
	Quoc D. Hoang	2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9-03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Goda et al (U.S. Pat No. 5,336,365) ("Goda").

Regarding claim 1, Goda teaches a polysilicon etching method comprising steps of: preparing a semiconductor substrate having an insulating film 16 with a protrusion formed on one principal surface of said substrate and a polysilicon layer 111 deposited on said insulating film 16 and covering the protrusion (col. 3, lines 5-10 and Fig. 4); forming a resist layer 112 on the said polysilicon layer 111, said resist layer 112 having a predetermined pattern not covering at least a portion of side walls of the protrusion (col. 3, lines 5-10 and Fig. 4); performing a first plasma etching process of etching said polysilicon layer 111 by using mixture gas of HBr and Cl₂ and said resist layer 112 as a mask to leave said polysilicon layer 111 having a pattern corresponding to said resist layer 112 and polysilicon residues 211 made of a portion of said polysilicon layer 111 on the side walls of the protrusion (col. 3, lines 10-27 and Fig. 5); and performing a second plasma etching process of removing the polysilicon residues 211 by using single gas of HBr and said resist layer as a mask (col. 3, lines 27-50 and Fig. 6). Note that He gas in the second plasma process is used as a carrier gas and does not act as an etching gas.

Regarding claim 2, Goda teaches wherein said second plasma etching process is performed at a pressure in a range of 5.0 to 10.0 mTorr (col. 4, lines 3-6).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goda et al (U.S. Pat No. 5,336,365) ("Goda").

Goda teaches the second plasma etching process is performed at low bias voltage and the etching selection ratio of polysilicon to the insulating film can be high (see col. 6 line 63 through col. 7 line 8).

Goda does not teach the wherein said second plasma etching process is performed under a condition that an etching selection ratio of said polysilicon layer to said insulating film is in a range of 20 to 40, and at a RF bias in a range of 10 to 20 W.

Claims 3 and 4 are rejected as being prima facie obvious without showing that the claimed etching selection ratio and RF bias in a range of 10 to 20 W achieve unexpected results relative to the prior art selection ratio and RF bias.

In re Woodruff, 16 USPQ2d 1935, 1937 (Fed. Cir. 1990). See also In re Huang, 40 USPQ2d 1685, 1688 (Fed. Cir. 1996) (claimed ranges of a result effective variable, which do not overlap the prior art ranges, are unpatentable unless they produce a new and unexpected result which is different in kind and not merely in degree from the

results of the prior art). See also *In re Boesch*, 205 USPQ 215 (CCPA) (discovery of optimum value of result effective variable in known process is ordinarily within skill of art) and *In re Aller*, 105 USPQ 233 (CCPA 1955) (selection of optimum ranges within prior art general conditions is obvious). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use the optimum ranges for the etching selection ratio and RF bias in the method of Goda.

Allowable Subject Matter

5. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: Claim 5 recites, inter alia, further comprising a step of performing a third plasma etching process after removing the polysilicon residues, said third plasma etching process being an over-etching process using said resist layer as a mask and mixture gas of HBr or Cl₂, and O₂ as etching gas. The art of record does not disclose or anticipate the limitation in combination with other claim element nor would it be obvious to modify the art of record so as to form a device including the above limitation.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Art Unit: 2818

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quoc Hoang whose telephone number is (571) 272-1780. The examiner can normally be reached on Monday-Friday from 8.00 AM to 5.00 PM.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The fax phone numbers of the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


Quoc Hoang
Patent examiner/AU 2818


David Nelms
Supervisory Patent Examiner
Technology Center 2800